
A BILL FOR AN ACT

RELATING TO DISABILITY COMPENSATION DIVISION SPECIAL FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 386, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§386- Disability compensation division special fund.

5 (a) There is established in the state treasury the disability
6 compensation division special fund, into which shall be
7 deposited:

8 (1) All moneys collected by the disability compensation
9 division pursuant to sections 386-86 and 386-95; and

10 (2) All interest earned upon any moneys in the fund.

11 (b) The fund shall be administered by the disability
12 compensation division of the department.

13 (c) Moneys in the disability compensation division special
14 fund shall be used by the disability compensation division for
15 operating costs incurred in the administration of chapter 386,
16 including but not limited to electronic document management.

17 (d) The disability compensation division shall submit a
18 report to the legislature detailing all funds deposited into and



1 all moneys disbursed out of the fund prior to the convening of
2 each regular session."

3 SECTION 2. Section 386-86, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§386-86 Proceedings upon claim; hearings.** (a) If a
6 claim for compensation is made, the director shall make such
7 further investigation as deemed necessary and render a decision
8 within sixty days after the conclusion of the hearing awarding
9 or denying compensation, stating the findings of fact and
10 conclusions of law. The director may extend the due date for
11 decisions for good cause provided all parties agree. The
12 decision shall be filed with the record of the proceedings and a
13 copy of the decision shall be sent immediately to each party.

14 (b) The hearing shall be informal and shall afford the
15 parties a full and fair opportunity to present the facts and
16 evidence to be considered. Hearings under this section shall
17 not be subject to chapter 91. No stenographic or tape recording
18 shall be allowed.

19 (c) The order of presentation shall not alter the burden
20 of proof, including the burden of producing evidence and the
21 burden of persuasion. The party or parties who bear these



1 burdens shall be determined by law consistent with the purposes
2 of this section.

3 (d) Should the injured employee or injured employee's
4 representative, or the employer or employer's representative
5 fail to appear at the hearing, the director may issue a decision
6 based on the information on file. The decision shall be final
7 unless appealed pursuant to section 386-87. In all other
8 circumstances, a decision shall not be rendered by the director
9 without a hearing, which may not be waived by the parties.

10 (e) For the purpose of obtaining any matter, not
11 privileged, which is relevant to the subject matter involved in
12 the pending action, the director, upon application and for good
13 cause shown, may order the taking of relevant testimony by
14 deposition, upon oral examination, or written interrogatories,
15 or by other means of discovery in the manner and effect
16 prescribed by the Hawaii rules of civil procedure; provided that
17 when the claimant's deposition is taken, the employer shall pay
18 for the cost to the claimant of attending the deposition, any
19 costs associated with having the deposition transcribed and
20 copied, and any and all reasonable attorney's fees and costs
21 incurred by the claimant with respect to the deposition.



1 (f) Subpoenas requiring the attendance of witnesses at a
2 hearing before a hearings officer or for the taking of a
3 deposition or the production of documentary evidence from any
4 place within the State at any designated place of hearing may be
5 issued by the director or a duly authorized representative. The
6 employer shall serve a claimant with a copy of a medical record
7 subpoena unless the employer has previously obtained the
8 claimant's authorization to examine the claimant's medical
9 records. Should the claimant subpoena medical records, the
10 employer shall be served a copy. The party subpoenaing the
11 records shall provide these records within fifteen calendar days
12 of their receipt to the employer, claimant, and the special
13 compensation fund if a joinder has been filed, or their
14 representatives. These records shall be submitted by the party
15 requesting the subpoena to the director within seven calendar
16 days of the date of the notice of hearing or upon request by the
17 director. A party who desires to enforce the director's
18 subpoena shall seek enforcement from a court of competent
19 jurisdiction.

20 (g) The disability compensation division may establish
21 reasonable fees for issuing subpoenas as prescribed in
22 subsection (f).



1 Effective from July 1, 2012, to June 30, 2015, or until
2 such time as a different amount is established by rules adopted
3 by the director, the amount to be charged for each subpoena
4 shall be \$10.

5 The fees prescribed under this subsection shall be paid in
6 advance by the party requesting the subpoena to the disability
7 compensation division and deposited with the director of finance
8 to the credit of the disability compensation division special
9 fund established under section 386- .

10 The disability compensation division administrator may
11 waive the payment of fees for good cause shown."

12 SECTION 3. Section 386-95, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§386-95 Reports of injuries, other reports, penalty.**

15 Every employer shall keep a record of all injuries, fatal or
16 otherwise, received by the employer's employees in the course of
17 their employment, when known to the employer or brought to the
18 employer's attention.

19 Within seven working days after the employer has knowledge
20 of such injury causing absence from work for one day or more or
21 requiring medical treatment beyond ordinary first aid, the
22 employer shall make a report thereon to the director. The



1 report shall set forth the name, address, and nature of the
2 employer's business and the name, age, sex, wages, and
3 occupation of the injured employee and shall state the date and
4 hour of the accident, if the injury is produced thereby, the
5 nature and cause of the injury, and such other information as
6 the director may require.

7 By January 31 of each year, the employer shall file with
8 the director a report with respect to each injury on which the
9 employer is continuing to pay compensation, showing all amounts
10 paid by the employer on account of the injury.

11 The reports required by this section shall be made on forms
12 to be obtained from the director pursuant to section 386-71 and
13 deposit of reports in the United States mail, addressed to the
14 director, within the time specified shall be deemed compliance
15 with the requirements of this section.

16 When an injury results in immediate death, the employer
17 shall within forty-eight hours notify personally or by telephone
18 a representative of the department in the county where the
19 injury occurred.

20 Within thirty days after final payment of compensation for
21 an injury, the employer shall file a final report with the
22 director showing the total payments made, the date of



1 termination of temporary total disability, and such other
2 information as the director may require.

3 Any employer who [~~willfully~~] wilfully refuses or neglects
4 to file any of the reports or give any notice required by this
5 section shall be fined by the director not more than \$5,000.

6 Copies of all reports, other than those of fatal injuries,
7 filed with the director as required by this section shall be
8 sent to the injured employee by the employer.

9 The disability compensation division may establish
10 reasonable fees for the filing of the "WC-1 Employer's Report of
11 Industrial Injury". Effective from July 1, 2012, to June 30,
12 2015, or until such time a different amount is established by
13 rule adopted by the director, the amount to be charged for each
14 filing shall be \$5.

15 The fees prescribed under this section shall be paid in
16 advance to the disability compensation division and deposited
17 with the director of finance to the credit of the disability
18 compensation division special fund established under section
19 386- . The disability compensation division administrator may
20 waive the payment of fees for good cause shown."

21 SECTION 4. There is appropriated out of the disability
22 compensation division special fund the sum of \$50,000 or so much



1 thereof as may be necessary for fiscal year 2012-2013 for
2 operating costs incurred in the administration of chapter 386,
3 Hawaii Revised Statutes.

4 The sum appropriated shall be expended by the department of
5 labor and industrial relations for the purposes of this Act.

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored

8 SECTION 6. This Act shall take effect upon its approval;
9 provided that section 4 of this Act shall take effect on July 1,
10 2012.



Report Title:

Disability Compensation Division Special Fund; Fees;
Appropriation

Description:

Authorizes the Disability Compensation Division to establish a Disability Compensation Division Special Fund and to establish reasonable fees for the issuing of subpoenas and filing of first injury reports. (HB2586 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

